



General Assembly

Substitute Bill No. 5061

February Session, 2002

AN ACT CONCERNING THE EMPLOYEES' REVIEW BOARD.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-202 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) Any employee who is not included in any collective bargaining
4 unit of state employees and who has achieved a permanent
5 appointment as defined in subdivision (19) of section 5-196 may appeal
6 to the Employees' Review Board if [he or she] such employee receives
7 an unsatisfactory performance evaluation or is demoted, suspended or
8 dismissed, or is aggrieved as a result of alleged discrimination, or
9 unsafe or unhealthy working conditions or violations involving the
10 interpretation and application of a specific state personnel statute,
11 regulation or rule. Such employee must have complied with
12 preliminary review procedures, except as otherwise provided in
13 subsection [(k)] (l) of this section. Such an appeal shall be submitted to
14 the board [within] not later than thirty days [of] from the completion
15 of the final level of the preliminary review procedure, provided the
16 first level of the procedure shall have been initiated no later than thirty
17 calendar days from the date of the alleged violation, except that in
18 cases of dismissal, demotion or suspension the grievance must be
19 submitted directly to the third level of the procedure and shall have
20 been initiated no later than thirty calendar days from the effective date
21 of such action.

22 (b) Any group of employees that is not included in any collective
23 bargaining unit of state employees may file an appeal as a group
24 directly with the Employees' Review Board if such group of employees
25 is laid off or dismissed, or is aggrieved as a result of alleged
26 discrimination, or unsafe or unhealthy working conditions or
27 violations involving the interpretation and application of a specific
28 state personnel statute, regulation or rule, provided each member of
29 such group has achieved a permanent appointment, as defined in
30 subdivision (19) of section 5-196. Such an appeal shall be submitted to
31 the board no later than thirty calendar days from the specific incident
32 or effective date of action giving rise to such appeal.

33 [(b)] (c) Upon receiving an appeal, the board shall assign a time and
34 place for a hearing and shall give notice [thereof] of such time and
35 place to the parties concerned. The hearing panel shall not be bound by
36 technical rules of evidence prevailing in the courts. If, after hearing, a
37 majority of the hearing panel determines that the action appealed from
38 was arbitrary or taken without reasonable cause, the appeal shall be
39 sustained; otherwise, the appeal shall be denied. The hearing panel
40 shall have the power to direct appropriate remedial action and shall do
41 so after taking into consideration just and equitable relief to the
42 employee or group of employees and the best interests and
43 effectiveness of the state service. The hearing panel shall render a
44 decision [within] not later than sixty calendar days from the date of the
45 conclusion of the hearing.

46 [(c)] (d) The employee or group of employees in any such case shall
47 be furnished, upon [his] request, with a copy of the transcript of the
48 proceedings before the board. The chairman of the board shall
49 establish a fair and reasonable fee per page to be charged for such
50 transcript which fee shall not exceed the fee per page for a transcript
51 charged by court reporters for the judicial district of Hartford.

52 [(d) Within] (e) Not later than ten days [of] from the issuance date of
53 a decision by a hearing panel sustaining an appeal, the appointing
54 authority of the employee shall take such measures as are necessary to

55 comply with the remedial action directed by the hearing panel.

56 [(e)] (f) An employee or group of employees laid off or dismissed by
57 reason of economy, lack of work, insufficient appropriation, change in
58 departmental organization or abolition of position may file an appeal
59 with the board only on the grounds that the order of layoff or
60 dismissal has not been determined in accordance with the provisions
61 of section 5-241, provided such employee or group of employees has
62 initiated the third level of the preliminary review procedure [within]
63 not later than thirty calendar days [of] from the effective date of such
64 layoff or dismissal.

65 [(f)] (g) All matters involving examination, including application
66 rejection, type of examination or results, compensation for class or
67 classes, establishment of a new class or classes, classification of a
68 position, occupational group or career progression level, compliance
69 with health and safety standards and the Connecticut Occupational
70 Safety and Health Act or alleged discrimination in cases where an
71 appeal has been filed with the Commission on Human Rights and
72 Opportunities, shall not be appealable under this section.

73 [(g)] (h) The first level of the preliminary review procedure
74 preparatory to the filing of an appeal from an alleged grievable action
75 under subsection (a) of this section other than dismissal, demotion or
76 suspension shall be the aggrieved employee's supervisor or
77 department chief or other employee as designated by the employee's
78 appointing authority. Such aggrieved employee shall present the
79 employee's grievance in writing on a form developed by the Secretary
80 of the Office of Policy and Management and the Employee Review
81 Board which form shall contain a statement of the date the alleged
82 violation occurred and the relief sought in answer to the grievance.
83 The first level designee shall give said designee's answer to such
84 employee [within] not later than seven calendar days from the date the
85 grievance is submitted to said designee or [within] not later than seven
86 days from the date of a meeting convened for the purpose of reviewing
87 the grievance, in which case such meeting shall be convened [within]

88 not later than seven calendar days from the date the grievance is
89 submitted.

90 [(h)] (i) The second level of the preliminary review procedure
91 preparatory to the filing of an appeal from an alleged grievable action
92 under subsection (a) of this section other than dismissal, demotion or
93 suspension shall be the aggrieved employee's appointing authority or
94 designated representative. Such employee, upon receiving a response
95 at the first level which [he] the employee deems to be unsatisfactory,
96 may proceed to this level by presenting the same form containing the
97 first level answers [within] not later than seven calendar days from the
98 date the answer was given at the first level. The appointing authority
99 or designated representative shall answer such employee [within] not
100 later than seven calendar days from the date the grievance is received
101 or [within] not later than seven calendar days from the date of a
102 meeting convened for the purpose of reviewing such grievance, in
103 which case such meeting shall be convened [within] not later than
104 seven calendar days from the date such grievance is received.

105 [(i)] (j) The third level of the preliminary review procedure
106 preparatory to the filing of an appeal from an alleged grievable action
107 under subsection (a) of this section including dismissal, demotion or
108 suspension shall be the Secretary of the Office of Policy and
109 Management or the secretary's designated representative. The
110 employee, upon receiving a response at the second level which [he] the
111 employee deems to be unsatisfactory, may proceed to this level by
112 presenting the same form containing the first and second level answers
113 [within] not later than seven calendar days from the date the answer
114 was given at the second level, except in the case of a dismissal,
115 demotion or suspension in which case such employee must present the
116 form, completed but without answers at lower levels [within] not later
117 than thirty calendar days [of] from the effective date of such action.
118 The Secretary of the Office of Policy and Management or the
119 secretary's designated representative shall reply to such employee
120 [within] not later than thirty calendar days from the date such
121 grievance is received or [within] not later than fifteen calendar days

122 from the date of a meeting convened for the purpose of reviewing such
123 grievance, in which case such meeting shall be convened [within] not
124 later than thirty calendar days from the date such grievance is
125 received.

126 [(j)] (k) Employees shall be entitled to have representation of their
127 own choosing at any or all levels of the review or appeal procedure.
128 No verbatim records shall be required in the preliminary procedure
129 and no oaths or affirmations shall be administered.

130 [(k)] (l) Any state officer or employee, as defined in section 4-141, or
131 any appointing authority shall not take or threaten to take any
132 personnel action against any state employee or group of state
133 employees in retaliation for [such employee's] the filing of an appeal
134 with the Employees' Review Board or a grievance with any level of the
135 preliminary review procedure pursuant to this section. An employee
136 or group of employees alleging that such action has been threatened or
137 taken may file an appeal directly with the board [within] not later than
138 thirty days of knowledge of the specific incident giving rise to such
139 claim.

140 [(l)] (m) Either the Secretary of the Office of Policy and Management
141 or any employee or group of employees aggrieved by a decision of the
142 Employees' Review Board may appeal [therefrom] from such decision
143 in accordance with section 4-183. The board may intervene as a party
144 in any appeal of its decision. Any employee or group of employees
145 [who] that prevails in a decision of the Employees' Review Board shall
146 be entitled to recover court costs and reasonable attorney's fees if such
147 decision is appealed by the Secretary of the Office of Policy and
148 Management and affirmed by the court in such appeal.

149 Sec. 2. Subsection (a) of section 5-240 of the general statutes is
150 repealed and the following is substituted in lieu thereof (*Effective*
151 *October 1, 2002*):

152 (a) An appointing authority, subject to any regulations issued by the
153 Secretary of the Office of Policy and Management, may reprimand or

